

REMARKS

The following remarks are responsive to the Final Office Action mailed October 26, 2010 ("Action"). Reconsideration of the rejections and allowance of the claims are respectfully requested for at least the following reasons.

Claim Rejections Under 35 U.S.C. § 103

Claims 25-27, 31-35, 39-43, and 47 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Maggenti (US 6,633,765) in view of Kanterakis (US 7,099,346), and further in view of Dan et al. (US 5,561,637).

Claims 28, 36, and 44 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Maggenti and Kanterakis in view of Taylor (US 2003/0043760).

Applicants respectfully traverse.

A. Comments on Claim 25 and its Dependent Claims

Claim 25 has been amended to incorporate the subject matter identified as being allowable in the Office Action mailed May 18, 2010 ("Earlier Action"). The Earlier Action objected to claims 30, 38, and 46 for being dependent on a rejected base claim, and noting that each contains allowable subject matter. *See* Earlier Action, p. 14. The Response filed August 18, 2010 ("Earlier Response") amended claim 25 to include the features of previous claims 29 and 30. In response, the Action asserts that claim 25 presented in the Earlier Response is not allowable because "the allowable subject matter is in an alternative form." *See* Action, p. 2. To address this issue, the above amendment to claim 25 includes determining steps in paragraphs d) and e) as to whether first and second conditions are met, the first condition being that a number of received requests for a file exceeds a predetermined threshold and the second condition being that a time limit has expired. Applicants respectfully submit that the claimed determining requires checking both conditions at least once, and hence the conditions are not in alternative form. As such, Applicants respectfully submit that amended claim 25 defines over the cited combination and request withdrawal of the rejection under 35 U.S.C. § 103. Applicants further solicit notification that claim 25 is allowable.

The pending claims that depend on claim 25 are allowable at least due to dependence on an allowable claim.

B. Comments on Claims 33 and 40, and their respective dependent claims

Independent claims 33 and 40 are allowable at least for reasons analogous to those given in support of claim 25.

The claims that respectively depend on claims 33 and 40 are allowable at least due to dependence on an allowable claim.

CONCLUSION

Applicants respectfully submit that the pending claims are in condition for allowance. Favorable reconsideration of this application is respectfully requested. The Examiner is invited to contact the undersigned should it be deemed necessary to facilitate prosecution of the application.

Respectfully submitted,
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